

AMENDED IN ASSEMBLY JUNE 15, 2014

AMENDED IN SENATE MAY 21, 2014

**SENATE BILL**

**No. 983**

---

**Introduced by Senator Hernandez**

February 11, 2014

---

An act to amend Section ~~53084.5~~ 149.7 of the ~~Government Streets and Highways~~ Code, relating to ~~local government~~ transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 983, as amended, Hernandez. ~~Cities and counties: sales and use taxes: revenue sharing agreement: card lock system. High-occupancy toll lanes.~~

*Existing law authorizes a regional transportation agency, as defined, in cooperation with the Department of Transportation, to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value-pricing program and exclusive or preferential lane facilities for public transit. Existing law limits the number of approved facilities to not more than 4, 2 in northern California and 2 in southern California, and provides that no applications may be approved on or after January 1, 2012.*

*This bill would additionally authorize specified local transportation authorities and the Santa Clara Valley Transportation Authority to apply to the commission for purposes of the above-described provisions. The bill would remove the limitations on the number of approved facilities and would delete the January 1, 2012, deadline for HOT lane applications. The bill would provide that each application is subject to the review and approval of the commission and would require a regional transportation agency that applies to the commission to reimburse the*

*commission for all of the commission's cost and expense incurred in processing the application.*

~~The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law. That law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified.~~

~~Existing law prohibits a local agency, including a city or county, from entering into any form of agreement with any other person that would involve the payment, transfer, diversion, or rebate of any amount of Bradley-Burns local tax proceeds for any purpose if the agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions, including an exception for an agreement to pay or rebate any Bradley-Burns local tax revenue relating to a buying company, as defined.~~

~~This bill would provide that, on or after May 1, 2014, a buying company does not include a retailer that contracts to sell fuel through a card lock system.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 149.7 of the Streets and Highways Code
- 2     is amended to read:
- 3     149.7. (a) A regional transportation agency, as defined in
- 4     ~~Section 143~~, subdivision (e), in cooperation with the department,
- 5     may apply to the commission to develop and operate
- 6     high-occupancy toll lanes, including the administration and
- 7     operation of a value pricing program and exclusive or preferential
- 8     lane facilities for public transit, consistent with the established
- 9     standards, requirements, and limitations that apply to those facilities
- 10    in Sections 149, 149.1, 149.3, 149.4, 149.5, and 149.6.
- 11    (b) ~~The commission shall review each~~ Each application for the
- 12    development and operation of the facilities described in subdivision
- 13    (a) ~~according~~ shall be subject to review and approval by the

1 *commission pursuant to eligibility criteria established by the*  
2 *commission. For each eligible application, the commission shall*  
3 *conduct at least one public hearing in northern California and one*  
4 *in southern California.*

5 ~~(e) The number of facilities approved under this section shall~~  
6 ~~not exceed four, two in northern California and two in southern~~  
7 ~~California.~~

8 *(c) A regional transportation agency that applies to the*  
9 *commission to develop and operate facilities described in*  
10 *subdivision (a) shall reimburse the commission for all of the*  
11 *commission's cost and expense incurred in processing the*  
12 *application.*

13 *(d) A regional transportation agency that develops or operates*  
14 *a facility, or facilities, described in subdivision (a) shall provide*  
15 *any information or data requested by the commission or the*  
16 *Legislative Analyst. The commission, in cooperation with the*  
17 *Legislative Analyst, shall annually prepare a report on the progress*  
18 *of the development and operation of a facility authorized under*  
19 *this section. The commission may submit this report as a section*  
20 *in its annual report to the Legislature required pursuant to Section*  
21 *14535 of the Government Code.*

22 ~~(e) No applications may be approved under this section on or~~  
23 ~~after January 1, 2012.~~

24 *(e) Notwithstanding Section 143, for purposes of this section,*  
25 *“regional transportation agency” means any of the following:*

26 *(1) A transportation planning agency described in Section 29532*  
27 *or 29532.1 of the Government Code.*

28 *(2) A county transportation commission established under*  
29 *Section 130050, 130050.1, or 130050.2 of the Public Utilities*  
30 *Code.*

31 *(3) Any other local or regional transportation entity that is*  
32 *designated by statute as a regional transportation agency.*

33 *(4) A joint exercise of powers authority established pursuant to*  
34 *Chapter 5 (commencing with Section 6500) of Division 7 of Title*  
35 *1 of the Government Code, with the consent of a transportation*  
36 *planning agency or a county transportation commission for the*  
37 *jurisdiction in which the transportation project will be developed.*

38 *(5) A local transportation authority designated pursuant to*  
39 *Division 12.5 (commencing with Section 131000) or Division 19*  
40 *(commencing with Section 180000) of the Public Utilities Code.*

1     (6) *The Santa Clara Valley Transportation Authority established*  
2     *pursuant to Part 12 (commencing with Section 100000) of Division*  
3     *10 of the Public Utilities Code.*

4     SECTION 1. ~~Section 53084.5 of the Government Code is~~  
5     ~~amended to read:~~

6     ~~53084.5. (a) On or after the date the act adding this section~~  
7     ~~takes effect, a local agency shall not enter into any form of~~  
8     ~~agreement that would result, directly or indirectly, in the payment,~~  
9     ~~transfer, diversion, or rebate of any tax revenue resulting from the~~  
10    ~~imposition of a sales and use tax under the Bradley-Burns Uniform~~  
11    ~~Local Sales and Use Tax Law (Part 1.5 (commencing with Section~~  
12    ~~7200) of Division 2 of the Revenue and Taxation Code) to any~~  
13    ~~person for any purpose when both of the following apply:~~

14    ~~(1) The agreement results in a reduction in the amount of~~  
15    ~~revenue that is received by another local agency from a retailer~~  
16    ~~that is located within the territorial jurisdiction of that other local~~  
17    ~~agency from the tax proceeds collected under the Bradley-Burns~~  
18    ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~  
19    ~~with Section 7200) of Division 2 of the Revenue and Taxation~~  
20    ~~Code). This subdivision shall not apply to a reduction in the use~~  
21    ~~tax proceeds that are distributed to that other local agency through~~  
22    ~~one or more countywide pools.~~

23    ~~(2) The retailer continues to maintain a physical presence within~~  
24    ~~the territorial jurisdiction of that other local agency. This~~  
25    ~~subdivision shall not apply if the retailer has expanded its~~  
26    ~~operations into another jurisdiction with the result that the retailer~~  
27    ~~is conducting a comparable operation within the jurisdiction of~~  
28    ~~both local agencies.~~

29    ~~(b) For the purposes of this section, the following definitions~~  
30    ~~have the following meanings:~~

31    ~~(1) "Local agency" means a chartered or general law city, a~~  
32    ~~chartered or general law county, or a city and county.~~

33    ~~(2) "Retailer" means a retailer as defined by Section 6015 of~~  
34    ~~the Revenue and Taxation Code.~~

35    ~~(3) "Physical presence" means the lease or ownership of any~~  
36    ~~real property for the purpose of carrying on business operations.~~

37    ~~(c) This section shall not apply to local tax proceeds provided~~  
38    ~~by a local agency to a retailer if the funds are used to reimburse~~  
39    ~~the retailer for the construction of public works improvements that~~

1 ~~serve all or a portion of the territorial jurisdiction of the local~~  
2 ~~agency.~~

3 ~~(d) (1) This section shall not apply to an agreement to pay or~~  
4 ~~rebate any tax revenue resulting from the imposition of a sales and~~  
5 ~~use tax under the Bradley-Burns Uniform Local Sales and Use~~  
6 ~~Tax Law (Part 1.5 (commencing with Section 7200) of Division~~  
7 ~~2 of the Revenue and Taxation Code) relating to a buying company.~~  
8 ~~“Buying company” means, and is limited to, a legal entity that is~~  
9 ~~separate from another legal entity that owns, controls, or is~~  
10 ~~otherwise related to, the buying company and which has been~~  
11 ~~created for the purpose of performing administrative functions,~~  
12 ~~including acquiring goods and services for the other entity, as~~  
13 ~~defined by the State Board of Equalization, and meets requirements~~  
14 ~~of a buying company under Sections 6066 to 6075, inclusive, of~~  
15 ~~the Revenue and Taxation Code, and the regulations adopted~~  
16 ~~pursuant to those sections.~~

17 ~~(2) (A) Notwithstanding paragraph (1), on or after May 1, 2014,~~  
18 ~~a buying company does not include a retailer that contracts to sell~~  
19 ~~fuel through a card lock system.~~

20 ~~(B) “Card lock system” means a system in which owners of~~  
21 ~~unattended card lock fueling stations form a network whereby~~  
22 ~~customers may purchase fuel at any of the network’s participating~~  
23 ~~fueling stations by use of a card issued to the customer, and where~~  
24 ~~prices are not posted at the pump and no receipt is given at the~~  
25 ~~time of delivery.~~

26 ~~(C) This paragraph does not apply to an agreement entered into~~  
27 ~~before May 1, 2014, to pay or rebate any tax revenue resulting~~  
28 ~~from the imposition of a sales and use tax under the Bradley-Burns~~  
29 ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~  
30 ~~with Section 7200) of Division 2 of the Revenue and Taxation~~  
31 ~~Code) relating to a buying company that is a retailer that contracts~~  
32 ~~to sell fuel through a card lock system.~~

33 ~~(e) This section shall not apply to any agreement by a local~~  
34 ~~agency to pay or rebate any use tax revenue resulting from the~~  
35 ~~imposition of a sales and use tax under the Bradley-Burns Uniform~~  
36 ~~Local Sales and Use Tax Law (Part 1.5 (commencing with Section~~  
37 ~~7200) of Division 2 of the Revenue and Taxation Code) relating~~  
38 ~~to a use tax direct payment permit issued under Section 7051.3 of~~  
39 ~~the Revenue and Taxation Code.~~

1     ~~(f) Nothing in this section shall be interpreted to limit the ability~~  
2     ~~of a local agency to contract with or otherwise enter into an~~  
3     ~~agreement pursuant to subdivision (b) of Section 7056 of the~~  
4     ~~Revenue and Taxation Code.~~

O